

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

SMARTMATIC USA CORP.,
SMARTMATIC INTERNATIONAL
HOLDING B.V., and SGO
CORPORATION LIMITED,

Plaintiffs,

v.

MICHAEL J. LINDELL and MY
PILLOW, INC.,

Defendants.

Case No. 22-cv-0098-JMB-JFD

**DECLARATION OF TIMOTHY M. FREY IN SUPPORT OF SMARTMATIC’S
REPLY IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY
JUDGMENT**

I, Timothy M. Frey, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18, I am competent to make this declaration, and I have personal knowledge of the facts stated herein. These facts are true to the best of my knowledge, information, and belief, and if called upon to testify as a witness, I could and would testify competently to them.

2. I am an attorney at the law firm Benesch, Friedlander, Coplan & Aronoff, LLP, and I represent Plaintiffs Smartmatic USA Corp., Smartmatic International Holding B.V., and SGO Corporation Limited (“Smartmatic”) in the above-captioned lawsuit.

3. Appendix C to Smartmatic’s Motion for Partial Summary Judgment and Smartmatic’s Opening Brief inadvertently referred to Statement 17 as occurring on a taping

of the *War Room* podcast on February 6, 2021, and attached a transcript from February 6 (Ex.33). This statement occurred at the February 5, 2021 *War Room* episode.

4. Attached as Exhibit 268 is a true and correct copy of a certified transcript of a February 6, 2021 episode of the *War Room* podcast.

5. Attached as Exhibit 269 is a true and correct copy of an audio recording of the February 6, 2021 episode of the *War Room* podcast. Exhibit 269 is an audio file matching the transcript in Exhibit 268.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



Timothy M. Frey

Executed on December 27, 2024